

21 C.J.S. Courts § 318

Corpus Juris Secundum | May 2023 Update

Courts

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IX. Court Commissioners

B. Powers and Immunity

§ 318. Actions of court commissioners in excess of authority; liability or immunity

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Court Commissioners](#) , [3](#), [4](#)

Unauthorized acts by court commissioners are a nullity or voidable, and commissioners are generally immune from damage liability for judicial acts taken in excess of jurisdiction.

Unauthorized acts by court commissioners are a nullity¹ or without legal effect² and may also be voidable.³ Thus, for example, where court commissioners are prohibited by statute from entering final appealable orders, the decision of a commissioner is a nullity from which no appeal can be taken.⁴

Generally, as a person performing judge-like functions,⁵ a court commissioner is immune from damage liability for judicial acts,⁶ even if the commissioner acts in excess of jurisdiction,⁷ as long as he or she does not act in the clear absence of jurisdiction.⁸

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Footnotes

- 1 Ind.—*Rivera v. State*, 601 N.E.2d 445 (Ind. Ct. App. 1992).
- 2 Mo.—*Kuhlman v. Director of Revenue, State of Mo.*, 943 S.W.2d 246 (Mo. Ct. App. E.D. 1997).
- 3 Wis.—*State v. Loney*, 110 Wis. 2d 256, 328 N.W.2d 872 (Ct. App. 1982).
- 4 Ind.—*Rivera v. State*, 601 N.E.2d 445 (Ind. Ct. App. 1992).
- 5 U.S.—*Franceschi v. Schwartz*, 57 F.3d 828 (9th Cir. 1995).
- 6 U.S.—*Franceschi v. Schwartz*, 57 F.3d 828 (9th Cir. 1995).

Cal.—*Branson v. Martin*, 56 Cal. App. 4th 300, 65 Cal. Rptr. 2d 401 (2d Dist. 1997).

Md.—*Davis v. DiPino*, 337 Md. 642, 655 A.2d 401 (1995).

Quasi-judicial immunity
U.S.—*D'Angelo v. New Hampshire Supreme Court*, 740 F.3d 802 (1st Cir. 2014).
- 7 U.S.—*Franceschi v. Schwartz*, 57 F.3d 828 (9th Cir. 1995).
- 8 U.S.—*Franceschi v. Schwartz*, 57 F.3d 828 (9th Cir. 1995).

Cal.—*Branson v. Martin*, 56 Cal. App. 4th 300, 65 Cal. Rptr. 2d 401 (2d Dist. 1997).